

APPENDIX D

CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the "Disclosure Certificate") is executed and delivered by the City of San José (the "City") in connection with the issuance by the City of its \$9,000,000 General Obligation Bonds, Series 2009 (Public Safety Projects) (the "Bonds"). The Bonds are being issued pursuant to a resolution adopted by the City Council of the City on June 2, 2009 and a Fiscal Agent Agreement (the "Fiscal Agent Agreement"), dated as of June 1, 2009, by and between the City and Wells Fargo Bank, National Association, as fiscal agent (the "Fiscal Agent"). Pursuant to Section 5.06 of the Fiscal Agent Agreement, the City covenants and agrees as follows:

Section 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the City for the benefit of the Owners and Beneficial Owners of the Bonds and in order to assist the Participating Underwriters in complying with Securities and Exchange Commission Rule 15c2-12(b)(5).

Section 2. Definitions. In addition to the definitions set forth in the Fiscal Agent Agreement, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"Annual Report" shall mean any Annual Report provided by the City pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

"Annual Report Date" means April 1 of each year for so long as the Bonds remain outstanding.

"Beneficial Owner" shall mean any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

"Disclosure Representative" shall mean the Deputy Director of Finance or Debt Administrator, or the designee of either.

"Dissemination Agent" shall mean the City or an entity selected and retained by the City, or any successor thereto selected by the City. The initial Dissemination Agent shall be the City.

"Listed Events" shall mean any of the events listed in Section 5(a) of this Disclosure Certificate and any other event legally required to be reported pursuant to the Rule.

"MSRB" means the Municipal Securities Rulemaking Board, which has been designated by the Securities and Exchange Commission as the sole repository of disclosure information for purposes of the Rule.

"Participating Underwriter" shall mean each of the original underwriters of the Bonds required to comply with the Rule in connection with offering of the Bonds.

"Rule" shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

"State" shall mean the State of California.

Section 3. Provision of Annual Reports.

(a) The City shall, or shall cause the Dissemination Agent to, not later than each Annual Reporting Date, commencing April 1, 2010 for the report for the 2008-09 fiscal year, provide to the MSRB, in an electronic format as prescribed by the MSRB, an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. The first annual report may be in the form of the Official Statement, together with the audited financial statements of the City for the Fiscal Year ended June 30, 2009. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may include by reference other information as provided in Section 4 of this Disclosure Certificate. If the Dissemination Agent is not the City, not later than fifteen (15) Business Days prior to the Annual Report Date, the City shall provide the Annual Report to the Dissemination Agent. The City shall provide a written certification with each Annual Report furnished to the Dissemination Agent to the effect that such Annual Report constitutes the Annual Report required to be furnished by the City hereunder. The Dissemination Agent may conclusively rely upon such certification of the City.

(b) If by fifteen (15) Business Days prior to the date specified in subsection (a) for filing the Annual Report with the MSRB, the Dissemination Agent has not received a copy of the Annual Report, the Dissemination Agent shall contact the City to determine if the City is in compliance with subsection (a).

(c) If the City does not provide (or cause the Dissemination Agent to provide) an Annual Report by the Annual Report Date, the City shall provide (or cause the Dissemination Agent to provide) to the MSRB, in an electronic format as prescribed by the MSRB, a notice in substantially the form attached as Exhibit A.

(d) With respect to each Annual Report, the Dissemination Agent shall:

(i) determine each year prior to the Annual Report Date the then-applicable rules and electronic format prescribed by the MSRB for the filing of annual continuing disclosure reports; and

(ii) if the Dissemination Agent is other than the City, file a report with the City certifying that the Annual Report has been provided pursuant to this Disclosure Certificate, and stating the date it was provided.

Section 4. Content of Annual Reports. The City's Annual Report shall contain or include by reference the following:

(a) Audited financial statements of the City prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If the City's audited financial statements are not available by the Annual Report Date, the Annual

Report shall contain unaudited financial statements in a format similar to that used for the City's audited financial statements, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

(b) The budget transmittal letter of the City for the current fiscal year, together with summary information relating to the City's operating budget for the current fiscal year, historical and trend information relating to the City's operating budgets, and budget policies and practices relating to the City's operating budgets, but only to the extent such material is prepared by the City in connection with the current fiscal year's operating budget;

(c) Changes, if any, in the operation of the County of Santa Clara's Teeter Plan affecting the City;

(d) Assessed value of taxable property within the jurisdiction of the City for the current fiscal year;

(e) Property tax collection delinquencies for the prior fiscal year for the City if the City is no longer a participant in the County of Santa Clara's Teeter Plan;

(f) Amount of all general obligation debt of the City outstanding, and total scheduled debt service on such general obligation debt as of the preceding June 30; and

(g) The Top ten real property tax assesses of the City for the current fiscal year, the total taxable value for the current fiscal year, and the percentage of total assessed value for each of the top ten real property assesses for the current fiscal year.

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues with respect to which the City is an "obligated person" (as defined by the Rule), which are available to the public on the MSRB's Internet web site or filed with the Securities and Exchange Commission. The City shall clearly identify each such other document so included by reference.

Section 5. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 5, the City shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Bonds, if material:

1. principal and interest payment delinquencies;
2. non-payment related defaults;
3. modifications to rights of Bondowners;
4. optional, contingent or unscheduled Bond calls;
5. defeasances;
6. rating changes;

7. adverse tax opinions or events affecting the tax-exempt status of the Bonds;
8. unscheduled draws on the debt service reserves, if any, reflecting financial difficulties;
9. unscheduled draws on credit enhancements reflecting financial difficulties;
10. substitution of credit or liquidity providers, or their failure to perform; and
11. release, substitution, or sale of property securing repayment of the Bonds.

(b) The Dissemination Agent shall, after obtaining actual knowledge of the occurrence of any of the Listed Events, without any determination as to materiality, contact the Disclosure Representative, inform such person of the event, and request that the City promptly notify the Dissemination Agent in writing whether or not to report the event pursuant to subsection (f). For purposes of this Disclosure Certificate, "actual knowledge" of the occurrence of such Listed Events shall mean knowledge by an officer of the Dissemination Agent with regular responsibility for administration of matters related to the Bonds.

(c) Whenever the City obtains knowledge of the occurrence of a Listed Event, whether because of a notice from the Dissemination Agent pursuant to subsection (b) or otherwise, the City shall as soon as possible determine if such event would constitute material information for Owners of Bonds, provided, that any event under subsection (a)(6) will always be defined to be material.

(d) If the City determines that knowledge of the occurrence of a Listed Event would be material under applicable Federal securities law, the City shall, or shall cause the Dissemination Agent (if not the City) to, promptly file a notice of such occurrence with the MSRB, in an electronic format as prescribed by the MSRB.

(e) If in response to a request under subsection (b), the City determines that the Listed Event would not be material under applicable federal securities laws, the City shall so notify the Dissemination Agent in writing and instruct the Dissemination Agent not to report the occurrence pursuant to subsection (f).

(f) If the Dissemination Agent has been instructed by the City to report the occurrence of a Listed Event, the Dissemination Agent shall file a notice of such occurrence with the Repository. Notwithstanding the foregoing:

(i) notice of the occurrence of a Listed Event described in subsections (a)(1), (4) or (5) shall be given by the Dissemination Agent unless the City gives the Dissemination Agent affirmative instructions not to disclose such occurrence; and

(ii) notice of Listed Events described in subsections (a)(4) and (5) shall not be given under this subsection any earlier than the notice (if any) of the underlying event is given to the Owners of affected Bonds pursuant to the Fiscal Agent Agreement.

Section 6. Identifying Information for Filings with the MSRB. All documents provided to the MSRB under the Disclosure Certificate shall be accompanied by identifying information as prescribed by the MSRB.

Section 7. Termination of Reporting Obligation. The City's and the Dissemination Agent's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the City shall give notice of such termination in the same manner as for a Listed Event under Section 5(f) hereof.

Section 8. Dissemination Agent. The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent may resign at any time by providing at least 60 days' notice in writing to the City and the Fiscal Agent.

Section 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the City may amend this Disclosure Certificate (and the Dissemination Agent shall agree to any amendment so requested by the City, provided no amendment increasing or affecting the obligations or duties of the Dissemination Agent shall be made without the consent of the Dissemination Agent) and any provision of this Disclosure Certificate may be waived if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws acceptable to the City to the effect that such amendment or waiver would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule.

Section 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the City chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Disclosure Certificate, the City shall have no obligation under this Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 11. Default. In the event of a failure of the City to comply with any provision of this Disclosure Certificate, any Owner or Beneficial Owner of the Bonds may take such actions, as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an Event of Default under the Fiscal Agent Agreement, and the sole remedy under this Disclosure Certificate in the event of any failure of the City or the Dissemination Agent (if not the City) to comply with this Disclosure Certificate shall be an action to compel performance. The City hereby represents and warrants that it is currently not in default under any other continuing disclosure arrangement entered into in connection with the Rule.

Section 12. Duties, Immunities and Liabilities of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure

Certificate, and the City agrees to indemnify and save the Dissemination Agent, and its officers, directors, employees and agents, harmless against any loss, expense and liabilities which they may incur arising out of or in the exercise or performance of their respective powers and duties hereunder, including the costs and expenses (including attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The Dissemination Agent shall be paid compensation by the City for its services provided hereunder in accordance with its schedule of fees as amended from time to time, and all expenses, legal fees and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder. The Dissemination Agent shall have no duty or obligation to review any information provided to it hereunder and shall not be deemed to be acting in any fiduciary capacity for the City, the Bondowners, or any other party. The obligations of the City under this Section shall survive resignation or removal of the Dissemination Agent and the payment of the Bonds.

Section 13. Notices. Any notices or communications to be given to the City pursuant to this Disclosure Certificate may be given as follows:

City of San José - Finance
Debt Management
200 East Santa Clara Street, 13th Floor Tower
San José, California 95113-1905
Debt.Management@sanjoseca.gov

Any person may, by written notice to the other persons listed above, designate a different address to which subsequent notices or communications should be sent.

Section 14. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the City, the Dissemination Agent, the Fiscal Agent, the Participating Underwriters and Owners and Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Dated: June __, 2009

CITY OF SAN JOSE

By _____
Deputy Director of Finance

APPROVED AS TO FORM:
Richard Doyle, City Attorney

By: _____
Chief Deputy City Attorney

EXHIBIT A

**NOTICE OF
FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: City of San José

Name of Bond Issue: \$9,000,000 General Obligation Bonds, Series 2009 (Public Safety Projects)

Date of Issuance: June __, 2009

NOTICE IS HEREBY GIVEN that the City of San José (the "City") has not provided an Annual Report with respect to the above-named Bonds as required by that certain Fiscal Agent Agreement, dated June 1, 2009, by and between the City and Wells Fargo Bank, National Association, as fiscal agent. The City anticipates that the Annual Report will be filed by _____.

Dated: _____

By: _____
Its: _____

[cc: City of San José]